

JACK O'BOYLE & ASSOCIATES
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ATTORNEYS FOR CARVANA, LLC

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

IN RE:

**MISTY M HUFFMAN
DEBTOR,**

§

CASE NO.: 19-42479

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§

§

CHAPTER 13

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**CARVANA, LLC
MOVANT,**

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§

§

V.

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§

**MISTY M HUFFMAN
RESPONDENT,**

§

§

**MOTION FOR RELIEF FROM THE AUTOMATIC STAY WITH REQUEST FOR
WAIVER OF 30-DAY HEARING REQUIREMENT**

NO HEARING WILL BE CONDUCTED ON THIS MOTION FOR RELIEF UNLESS A WRITTEN RESPONSE IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH REQUESTS FOR HEARING.

IF NO RESPONSE IS TIMELY SERVED AND FILED, THIS PLEADING SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF A RESPONSE IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

TO THE HONORABLE JUDGE OF SAID BANKRUPTCY COURT:

NOW COMES CARVANA, LLC (hereinafter "Movant"), its successors and/or assigns, a secured creditor in the above-styled and numbered case, by and through its attorneys, and files this

Motion for Relief from Stay against MISTY M HUFFMAN (hereinafter “Debtor”) and in support of said Motion would show the court as follows:

1. This Court has jurisdiction over this proceeding pursuant to the provisions of 28 U.S.C. Sections 1471, 1334, 362 and 363.

2. On September 10, 2019 Debtor filed a Petition under Chapter 13 of the Bankruptcy Code, and pursuant thereto, an Order for Relief was granted.

3. Movant is the owner of a first lien claim against Debtor. Movant’s claim arose on or about 05/04/2019 when Movant loaned Debtor the purchase money for a 2016 KIA SOREN LX VIN: 5XYPG4A30GG119696 (the “Vehicle”). To secure said loan Debtor gave movant a lien on the vehicle (collectively the “Loan Agreement”). True and correct copies of the Certificate of Title and Loan Agreement held by Movant are attached hereto and incorporated herein by reference.

4. The automatic stay which arose upon the filing of Debtor’s petition herein should be lifted to permit Movant to pursue its contractual and state law remedies regarding the Property for reason(s) that:

i. For Cause, in that Debtor has failed to make payments when due, resulting in an arrearage amount of \$1,020.00 as of December 20, 2019.

Next payment of \$355.00 will be due on January 4, 2019. A true and correct copy of the payment history is attached hereto and incorporated herein by reference.

ii. For Cause, in that Movant does not have evidence that the vehicle described herein is insured.

5. The value of the collateral has declined since the petition filing. Additionally, the Debtor has no equity in the collateral.

6. For the above and foregoing reasons, Movant asserts cause exists sufficient to waive the requirement of Bankruptcy Rule 4001(a)(3), therefore allowing an Order to be effective upon this Honorable Court's signature.

WHEREFORE, PREMISES CONSIDERED, Movant prays that upon final hearing of this Motion, the Automatic Stay, pursuant to 11 U.S.C. Section 362, be modified to permit Movant to exercise its contractual and statutory rights to take possession of the vehicle described herein and thereafter dispose of the same as provided by law. In the event the Automatic Stay is not unconditionally lift, Movant prays that this Court enter such orders as will adequately protect Movant including therein an award of attorney's fees for the bringing of this motion. Movant prays that the provisions of Rule 4001(a)(3) not apply to any order issued pursuant to this Motion. Movant prays for such other and further relief, at law or in equity, to which it may show itself justly entitled.

Respectfully Submitted,

JACK O'BOYLE & ASSOCIATES

/s/ Travis H Gray
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing pleading has been sent to the persons listed below electronically or by first class mail on December 23, 2019.

MISTY M HUFFMAN
307 SOUTH LAKESHORE DRIVE
ROCKWALL TX 75087

Carey D. Ebert
P.O. Box 941166
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CHAPTER 13 TRUSTEE

U.S. Trustee
110 N. College Ave.,
Suite 300
Tyler TX 75702

Greg Arnove
555 Republic Ave., Ste. 200
Plano TX 75074

/s/ Travis H Gray
Travis H Gray